

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JOHN DEJUAN HATCHER,	:	
	:	
Petitioner,	:	Civ. No. 19-8692 (NLH)
	:	
v.	:	MEMORANDUM AND ORDER
	:	
DAVID ORTIZ,	:	
	:	
Respondent.	:	
	:	

It appearing that:

1. Petitioner John DeJuan Hatcher ("Petitioner"), a prisoner currently confined at Federal Correctional Institution at Fort Dix in Fort Dix, New Jersey, has submitted a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 seeking to challenge his federal conviction from the U.S. District Court for the Eastern District of Michigan. ECF No. 1.

2. The Court issued an order to answer, and the Respondent filed a letter in which it argued that the Court lacked jurisdiction over the Petition brought pursuant to § 2241 and sought leave to file a motion to dismiss.¹ See ECF No. 6. Such a challenge, the Respondent stated, would need to be

¹ The Respondent has not yet filed an answer or a motion to dismiss.

brought pursuant to 28 U.S.C. § 2255 in his sentencing court.

See id.

3. After receiving Respondent's letter request, Petitioner filed a notice of voluntary dismissal stating that he agrees with Respondent that a § 2241 petition is not the correct way to bring a challenge to his conviction. See ECF No. 10. The Court construes this as a request pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), because Respondent has not yet filed a formal answer or responsive pleading.

4. Under Rule 41(a)(1), the Plaintiff may dismiss an action by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment."

5. The Court will thus enter an order pursuant to Petitioner's notice of voluntary dismissal. The Court notes that there are no counter-, cross-, or third-party claims in this matter.

IT IS, therefore, on this 10th day of October, 2019,
ORDERED that Petitioner's request to voluntary dismiss his Petition for Writ of Habeas Corpus brought pursuant to 28 U.S.C. § 2241 is GRANTED; and it is further

ORDERED that the Petition, ECF No. 1, is DISMISSED WITHOUT

PREJUDICE; and it is finally

ORDERED that the Clerk of the Court shall serve a copy of this Order upon Petitioner by regular mail and mark this action closed.

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.